

..... DCJIS Newsletter



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James F. Slater, III, Acting Commissioner

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DCJIS ANNOUNCEMENTS

CJIS Audit Program

In July, 2013, the DCJIS underwent its triennial audit by the FBI CJIS Division. As expected, the DCJIS was cited by the FBI auditors for not having a persistent auditing program as required by FBI policy. Since this was not the first time the DCJIS has been cited for not auditing every CJIS agency once every three years, the Compliance and Evaluation Subcommittee (CES) of the FBI CJIS Advisory Policy Board (APB) sent a letter to the Governor demanding that the state come into compliance with this particular policy.

In response to the FBI audit finding and subsequent communication to the Governor, the DCJIS re-launched its auditing program in December, 2013, using its online auditing system. Unfortunately, we must perform two audit cycles over the next three years to be in compliance with FBI policy and to satisfy the CES.

The first cycle of audits was conducted entirely via the DCJIS online auditing system. An audit questionnaire was sent to each CJIS Representative, who completed the questionnaire online and sent it back to the CJIS Support Services Unit.

The second cycle will begin in July, 2014, and will consist entirely of on-site audits. One or more CJIS auditors will visit each CJIS agency and conduct an in-person interview with the CJIS Representative. The auditor(s) will also review selected records entered by the agency into the CJIS to ensure that the agency is adhering to all CJIS and FBI policies relative to record quality and maintenance. A preliminary report

will be provided at the conclusion of the on-site visit, and a formal written report will be sent to each agency at a later date.

For the past several months, the CSSU has been working diligently to reviewing the audit questionnaires from the first cycle and complete audit reports before the start of the on-site audits. However, there are still many agencies which have not completed their audit questionnaires. In addition, the CSSU has been reaching out to agency CJIS Representatives with follow-up questions regarding their audit questionnaires, but many have not responded, or have not responded in a timely matter. Agency cooperation is essential to the success of the audit program, so all CJIS Representatives are encouraged to be as responsive as possible. The DCIS will do what it can to get complete information from each agency and to produce a final audit report which is reflective of that complete information. However, there will come a point at which final reports will be written even if we have not received complete information, and these reports may prove to be detrimental as a result.

If you have any questions whatsoever, please contact the CSSU by phone at 617.660.4710, or via email at cjis.support@state.ma.us. If your agency has not yet responded to the on-line audit cycle, you must log into the audit program, via the CJIS Launch Pad application, as soon as possible and complete the questionnaire. The CSSU can assist any agency having difficulty completing the on-line audit.

Education Fingerprinting Law

Chapter 459 of the Acts of 2012, as amended by Chapter 77 of the Acts of 2013, (<http://www.malegislature.gov/Laws/SessionLaws/Acts/2012/Chapter459>) expands what public, private, and parochial schools, including approved private special education schools and child care facilities, already do in conducting state Criminal Offender Record Information (CORI) checks on all employees at least once every three years. Specifically, it requires fingerprint-based state and national criminal record checks all school employees, including educators, student teachers, maintenance staff, cafeteria workers, and bus drivers, who work in the schools and may have direct and unmonitored contact with children. All staff hired for the 2013-2014 school year are required to complete the new fingerprint-based state and national background check before the start of the 2014-2015 school year. All other individuals subject to the new law must complete a fingerprint-based state and national criminal record check before the beginning of the 2016 school year.

To facilitate this process, the Executive Office of Public Safety and Security (EOPSS) has entered into a contract with MorphoTrust to open and staff fingerprinting centers across the state. As of today, there are 18 operating sites, with more expected to open in the near future.

The Statewide Applicant Fingerprint Identification Services (SAFIS) program was launched in February 2014. At that time, newly hired employees for the 2013-14 school year, as well as applicants for licensure by the Department of Early Education and Care (EEC), began scheduling appointments to submit their fingerprints, pursuant to the new law. As of this writing, the Department of Criminal Justice Information Services has processed and returned over 8,000 fingerprint results to the appropriate school districts.

Many law enforcement departments have been asked by schools if they would be willing to fingerprint school personnel for purposes of complying with the new law and, in some cases, departments have actually taken fingerprints for school employees. However, police departments are unable to submit fingerprints taken for this purpose, nor will fingerprint cards submitted be processed. All school personnel needing to be fingerprinted under the law **MUST** have their fingerprints taken at one of the MorphoTrust fingerprinting centers.

Please visit the SAFIS web site at mass.gov/safis for more information on this topic. You can also contact the Statewide Applicant Fingerprint Identification Service (SAFIS) Program Unit by phone at 617.660.4640 or via email at safis@state.ma.us.

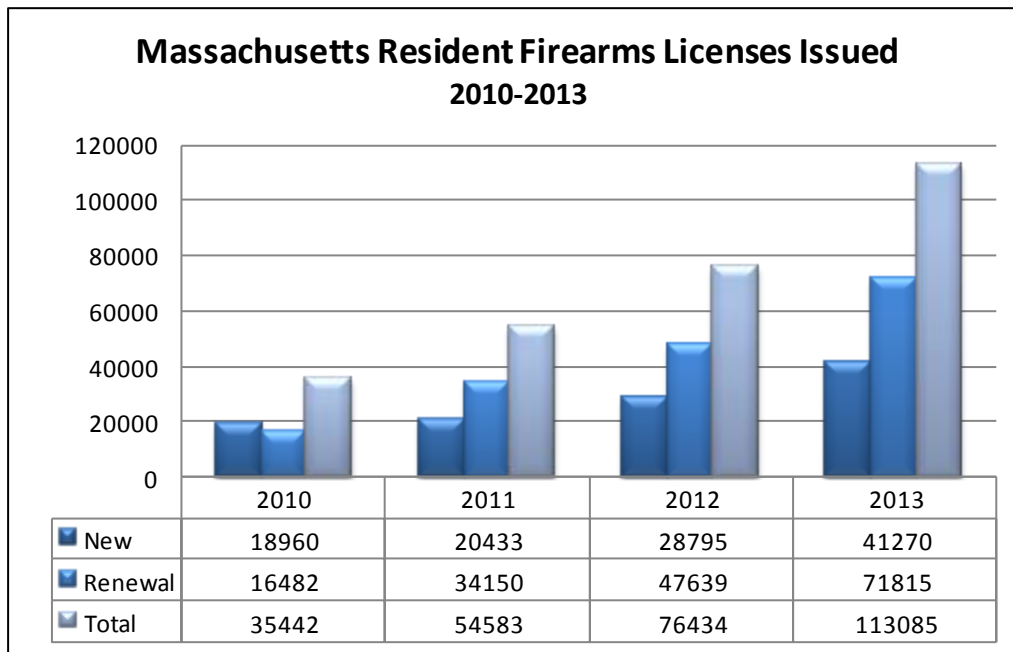
PROJECT SPOTLIGHT

DCJIS Takes Steps to Improve Firearms Licensing in the Commonwealth

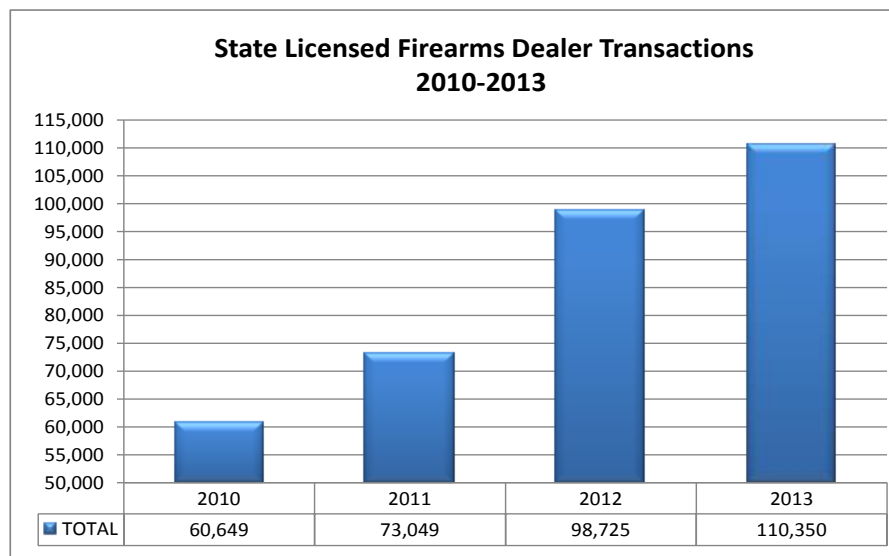
The issuance of firearms licenses and the sale of firearms in Massachusetts are at an all time high. The steadily increasing number of applications has stressed already short-staffed police departments, causing delays in the processing of firearms license applications. The problem has been further compounded by an aging technical infrastructure that caused system delays and failures not only for law enforcement personnel tasked with issuing licenses, but also for gun dealers recording Massachusetts firearms sales.

Firearms licenses in Massachusetts are issued electronically at local police departments through the Massachusetts Instant Record Check System (MIRCS), which is maintained by the Department of Criminal Justice Information Services (DCJIS). MIRCS is also utilized by Massachusetts licensed firearms dealers to electronically submit sales to the Commonwealth. MIRCS was deployed in 2005, and was the first system in the country to verify the identity of the license holder and the validity of a firearms license at the point of a firearm purchase through fingerprints.

Over the past four years, new applications for class A and class B licenses to carry (LTC) and for firearms identification (FID) cards have risen steadily from 18,960 in 2010 to 41,270 in 2013, an increase of 118%. 2013 also marked the peak of a six year licensing cycle, where over 71,000 renewal applications were processed – an increase of over 55,000 licenses from 2010. Due to statutory changes to issue and expiration dates created by changes to the Massachusetts gun laws in 1998 and 2004, this licensing cycle will continue to rise and fall consistently every six years.



The sale of firearms has also increased steadily over the past several years. In fact, 2013 marked an all-time high for the sale and transfer of firearms, rifles, shotguns, and machine guns by licensed Massachusetts firearms dealers to individuals possessing a valid Massachusetts firearms license – over 110,000 sales were reported through MIRCS (see below).



In late 2012 and early 2013, severe delays occurred in the issuance of firearms licenses. Also, high traffic on MIRCS due to the large number of firearms sales caused the system to freeze or fail for gun dealers trying to report transactions as required. It became apparent that the DCJIS needed to make immediate changes that would facilitate a more efficient system for firearms licensing and sales.

In response to the increases in firearms license applications and gun sales, and the delays in the licensing process, the DCJIS implemented several key changes:

1. **June, 2011:** deployed the Massachusetts Firearms Registration and Transfer System (EFA10), which allows for several types of firearms transactions to be completed instantly online, including:
 - Personal Sale or Transfer
 - Registration
 - Loss or Theft
 - Inheritance
 - Surrender Weapon to Police/Transfer After Surrender
 - Generate a Firearms License Validation
2. **November, 2012:** created a hotline where constituents can call to retrieve their license to carry (LTC) or firearms identification (FID) card personal identification numbers (PINs).
3. **November, 2012:** created a hotline where a constituent can receive the status of his/her firearms license application that is pending at his/her local licensing authority.
4. **July, 2013:** replaced aging servers for the Massachusetts Instant Record Check System (MIRCS); removed the personal identification device (PID) and began requiring purchaser identity verification through PIN number only.
5. **September, 2013:** created a process by which a constituent can change the address on his/her firearms license through DCJIS via phone. A licensee must still notify the local licensing authorities who issued the license and in the city/town to which he/she is moving, via certified mail.
6. **October, 2013:** DCJIS Firearms Records Bureau (FRB) staff members began attending gun shows to look up PIN numbers on site and answer any questions regarding the firearms licensing process.
7. **November, 2013:** Mass State Police Identification Section (SIS) modernized several key programs and servers allowing for the faster and more efficient processing of nationwide, fingerprint-based background checks which are required to be completed for firearms licensing. The SIS also deployed a new application, AFISR, which allows for the review of fingerprint submissions online.

A marked improvement in the performance of MIRCS has occurred since the implementation of these changes. A large number of licenses are still being processed, but firearms licensing officials are no longer experiencing system delays and are generally processing license applications within the statutory 40-day time frame. Gun dealers are able to quickly process sales and FRB staff has received positive feedback at gun shows. The DCJIS looks forward to continuing to make positive changes in the future.

DID YOU KNOW?

Fingerprinting Requirements for CJIS Agencies

The CJIS User Agreement and the FBI CJIS Security Policy require each CJIS agency to conduct fingerprint-based criminal record checks on all personnel prior to hire and at least once every three years thereafter. In addition, agencies must conduct fingerprint-based criminal record checks on all other individuals who have unescorted access to secure (non-public) areas of the agency prior to allowing access. These individuals include city/town IT personnel, contractors, vendors, custodians, and volunteers.

These background check requests are submitted either as criminal justice employment checks (for all employees of the department) or as criminal justice checks (all non-employees) and can be done on your live-scan fingerprinting device. There is no fee for these checks.

Important: with regard to fingerprint-based background checks conducted on non-department personnel, no information received in response to a fingerprint-based check may be disseminated to the individual's actual employer.

If a felony conviction of any kind exists, an employee is not to be allowed access to the CJIS or to any information derived from the CJIS, and the Department is required to notify the DCJIS, in writing, as soon as practical. In the case of a non-employee, the agency must deny unescorted access to the individual.

If a misdemeanor conviction exists, the Department must notify the DCJIS and must request a waiver before the employee is allowed to access the CJIS or CJI, or before the non-employee is provided unescorted access to secure areas.

A part of their respective auditing programs, both the DCJIS and the FBI will check to ensure that the appropriate fingerprint-based background checks have been completed by the agency being audited. An agency which has not conducted these fingerprint-based checks as required will be found out-of-compliance in this area.

Should you have any questions about these fingerprinting requirements, please contact the CJIS Support Services Unit by phone at 617.660.4710 or via email at cjis.support@state.ma.us.

What you need to know about Municipal Licensing and National Criminal History Background Checks

May 13, 2014

On May 4, 2012, the CORI law was amended and a new section, M.G.L. c. 6, § 172B ½, was added to the General Laws. G.L. c. 6, § 172B ½, (in conjunction with 28 U.S.C. § 534, authorizes municipalities to establish local ordinances or by-laws that require applicants for licenses in specified occupations to submit a full set of fingerprints for the purpose of conducting state and national criminal history record checks. In the past, criminal background checks for municipal licensing purposes were limited to Massachusetts Criminal Offender Record Information (CORI) checks. Municipalities were not authorized to access Federal Bureau of Investigation (FBI) national fingerprint-based Criminal History Record Information (CHRI) because there was no specific authority to do so under state or federal law. Under the revised CORI law, municipalities may now enact ordinances and by-laws requiring applicants to submit to fingerprint-based national criminal history background check as a condition of licensure. To date, twenty four (24) municipalities have been approved by the FBI to submit CHRI checks for municipal licenses applicants.

What Municipalities Need to Do

A Municipality that is interested in submitting fingerprints for state and national CHRI checks on municipal license applicants should first contact its local police department. The local police department will be the entity that will be responsible for processing the fingerprint-based checks, so it is important to have its support prior to enacting a by-law or ordinance to require state and national criminal record checks.

Next, the municipality should work with the Town Counsel/City Solicitor to draft a by-law or ordinance requiring checks for this purpose. The ordinance or by-law cannot include a general statement regarding who is subject to checks (i.e. all license applicants). Rather, the ordinance or by-law must specifically state who is subject to checks (e.g., liquor licensees, ice cream truck licensees, hawker's and peddlers). The FBI will not approve an ordinance or by-law that does not specify which license types are subject to a check. Furthermore, G.L. c. 6, § 172B ½, only allows for checks of applicants for licenses in specified occupations. Therefore, municipal employees are not subject to state and national CHRI checks under this law.

After the municipality has approved a by-law or ordinance that complies with these provisions, the next step involves receiving approval from the Attorney General's Office, if required, and from the FBI. To obtain FBI approval, a copy of the by-law/ordinance must be mailed to the Massachusetts State Police (MSP) State Identification Section (SIS) at the following:

**Massachusetts State Police
State Identification Section
59 Horse Pond Road
Sudbury, MA 01776.**

The SIS will submit this information to the FBI for review. A copy of the by-law/ordinance must also be emailed to the DCJIS at dcjisprints@state.ma.us. The municipality will be notified by the SIS when FBI approval has been granted.

Prior to submitting any fingerprint-based checks, the municipality must also adopt a municipal fingerprint policy that contains the minimum requirements set forth in the DCJIS model policy. The completed policy must be submitted to the DCJIS for approval before any fingerprint-based criminal record checks will be processed. Municipal Fingerprint Policies must be emailed to the DCJIS at dcjisprints@state.ma.us. The DCJIS will notify you once the policy has been approved.

The municipality will need to decide who is responsible for the collection of the fees and consent forms for each request. If the municipality will be collecting the fees, then a separate money order or bank certified check for \$30.00, made payable to the Commonwealth of Massachusetts, will need to be forwarded to the police department. The police department will submit the individual's fingerprint card, along with the fee and the MSP BA form, to the DCJIS for processing.

Municipalities will need to work closely with their respective local police departments in reviewing CHRI results for municipal license applicants. Municipalities that are inclined to deny an individual on the basis of his or her state or national CHRI results must comply with state and federal laws. For example, a municipality must ensure that the individual is provided with the opportunity to change, correct, or update his state and/or CHRI results as set forth in state and federal regulations.

Note on Ice Cream Truck Vendors

Massachusetts Law prohibits an individual from engaging in ice cream vending without first obtaining a permit to do so issued by the permitting authority. Pursuant to G.L. c. 270, §25, the permitting authority is defined as, "the chief of police or the board or officer having control of the police in a city or town, or person authorized by them." The law also requires that the application include the fingerprints of the licensee and that the permitting authority conduct an investigation into the criminal history of the individual to determine eligibility. This law does not provide police departments or municipalities with the authority to conduct state and national CHRI checks of ice cream truck vendors. If a municipality would like to conduct state and national fingerprint-based criminal record checks of ice cream truck vendors, this license type must be included in the by-law or ordinance approved by the FBI.

Police Departments

Police departments play an integral role in the processing of fingerprint-based record checks for municipal license applicants. After the by-law/ordinance has been approved by the FBI, and after the

municipality's fingerprinting policy has been approved by the DCJIS, the police department may begin submitting requests for the municipal license applicants specified in the by-law/ordinance to the DCJIS. The police department must coordinate with the municipality to determine who will be responsible for collecting the consent forms and fees. After the prints have been taken, the police department must mail the fee, fingerprint card, and applicant BA form to the following:

Massachusetts Department of Criminal Justice Information Services
200 Arlington Street, Suite 2200
Chelsea, MA 02150
ATTN: Civil Fingerprinting

The police department will also be responsible for reviewing all state and national CHRI responses to ensure that juvenile and sealed records are redacted from any results that are shared with civilian municipal officials involved in the licensing process. If the police department issues the license, then it must take responsibility for ensuring that applicants that may be denied on the basis of record check results are provided with the opportunity to change, correct, or update their criminal records as set forth in state and federal regulations.

Lastly, police departments must ensure that the state and national CHRI results remain confidential and are only disseminated to the extent necessary to facilitate the processing of the application. When a final decision on a state and national record check result has been made, the information must be destroyed by shredding or burning, or by other means which renders the information completely unreadable.

Role of the MSP SIS

The MSP SIS provides support and direction to police departments processing fingerprint-based results for license applicants. The SIS will forward all approved municipal by-laws and ordinances to the FBI for final approval. It will also notify the municipality and/or police department when the FBI has approved the by-law/ordinance. Once a municipality's by-law/ordinance has received FBI approval, the SIS will provide the police department with copies of the BA applicant form and information on policy requirements. The SIS will also process all fingerprint submissions for municipal licensing purposes. The SIS will coordinate with the DCJIS to ensure that your municipality's policy has been approved prior to the processing of any checks. Finally, the SIS will return all criminal record check results to the police department that submitted the fingerprints.

DCJIS's Role

The DCJIS also provides support and direction to police departments and municipalities that seek to process fingerprint-based checks in accordance with this law. The DCJIS will review and work with municipalities to ensure that their policies meet the minimum requirements of the DCJIS model policy. Once a municipality by-law/ordinance has been approved, the DCJIS will also facilitate the fee collection

and request processes. The fee for each request, the fingerprint card, and the BA form are mailed to the DCJIS. The DCJIS processes the fees for the record check requests and then mails the fingerprint cards to the SIS to be processed. The SIS will respond directly to the police department.

The DCJIS also ensures compliance with state and federal laws pertaining state and national CHRI checks through periodic audits and training. Each police department is responsible for complying with all audit and training requirements under the provisions of its CJIS User Agreement.

Municipal License Applicants

As a municipal license applicant, you may be required to submit to a state and national CHRI check for your municipal license. Prior to submitting a fingerprint-based search to the FBI through the Massachusetts State Police (MSP) State Identification Section (SIS), the municipality must first have a by-law/ordinance for the specific license type that has been approved by the FBI.¹ You will need to complete a consent form and pay a fee of \$30.00 made payable by money order or bank certified check to the Commonwealth of Massachusetts. Note, this fee will be in addition to any fee charged by the municipality. If a fingerprint-based criminal record check reveals the existence of a record, a municipality must provide you with the opportunity to change, correct, or update your state and/or FBI CHRI results before taking any adverse action with regard to your license application as set forth in federal regulation 28 C.F.R. 16.34. Similarly, if there is a potential adverse decision based on your CORI, the municipality must provide you with the opportunity to dispute the accuracy of your CORI in accordance with 803 CMR 2.19 and 2.20.

Please note that the requirements regarding which license types are subject to state and national CHRI checks will vary by municipality. One municipality may not conduct fingerprint-based criminal record checks for any license types. In contrast, another municipality may check only certain license types. For additional information on local requirements, please check with the municipality in which you intend to apply for a license.

Resources

The DCJIS has published a procedure, model policy, consent form, and the FBI's Information on how to correct or challenge an FBI CHRI result on its homepage. Please visit www.mass.gov/cjis for this information or contact the DCJIS legal department at 617-660-4760 with questions.

¹ Note, this does not apply in the case of firearms licensing. FBI CHRI checks may always be processed for firearms licensing purposes by a police department without a by-law/ordinance.

EVENTS & SAVE-THE-DATES

UPCOMING CJIS TRAINING

July 16, 2014:

DCJIS Criminal Justice Information Systems (CJIS) and Criminal Offender Record Information (CORI) Policy Training

July 23, 2014:

Validation Training

Aug 13, 2014:

DCJIS Criminal Justice Information Systems (CJIS) and Criminal Offender Record Information (CORI) Policy Training

Aug 20, 2014:

MIRCS Training

Sept 10, 2014:

DCJIS Criminal Justice Information Systems (CJIS) and Criminal Offender Record Information (CORI) Policy Training

Sept 11, 2014:

Validation Training

To register for trainings, please call CJIS Support Services Unit at: (617)660.4760 or register online via CJIS Extranet. Seating is limited, please register early.

WHO TO CONTACT AT DCJIS

Massachusetts DCJIS Contacts

DCJIS Unit	Telephone Number
DCJIS Main Number	617-660-4600
DCJIS Main FAX Number	617-660-4613
TTY Number	617-660-4606
CJIS Support Services Unit	617-660-4710
Firearms Records Bureau	617-660-4782
Firearms PIN & Status Hotline	617-660-4722
Legal Unit	617-660-4760
Constituent Assistance & Research Unit (CARU)	617-660-4640
Criminal Offender Records Information (CORI)	617-660-4704
SAFIS Response Unit (SRU)	617-660-4790
SAFIS Screening Unit	617-660-4721
Victim Services Unit	617-660-4690

**MASSACHUSETTS
DEPARTMENT OF CRIMINAL JUSTICE
INFORMATION SERVICES
200 ARLINGTON STREET, SUITE 2200
CHELSEA, MA 02150
MASS.GOV/CJIS**

**The DCJIS Newsletter will be
transmitted electronically and
posted to mass.gov/cjis and the
DCJIS Extranet.**